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HOUSE BILL 569

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

William "Ed" Boykin

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO QUALIFIED ASSISTANCE ANIMALS; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 28-11-1.1 NMSA 1978 is enacted
to read:

"28-11-1.1. [NEW MATERIAL] SHORT TITLE.--Chapter 28,
Article 11 NMSA 1978 may be cited as the "Assistance Animal
Act"."

Section 2. Section 28-11-2 NMSA 1978 (being Laws 1989,
Chapter 242, Section 1, as amended by Laws 1999, Chapter 262,
Section 1 and also by Laws 1999, Chapter 288, Section 1) is
amended to read:

"28-11-2. [DEFINITIONS] DEFINITION.--As used in [Section
~~28-11-3 NMSA 1978, "qualified assistance animal" means:~~

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underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~A. a dog trained or being trained by a recognized~~
2 ~~school for training dogs to assist persons with disabilities;~~

3 ~~B. an animal recognized as a service animal~~
4 ~~pursuant to the Americans with Disabilities Act of 1990; or~~

5 ~~C. any other animal approved by the governor's~~
6 ~~committee on concerns of the handicapped as acceptable in~~
7 ~~public places and trained to provide some special assistance to~~
8 ~~a person with a disability]~~ the Assistance Animal Act,

9 "qualified assistance animal" means any assistance dog or other
10 animal that has been or is being trained to provide assistance
11 to an individual with a disability and includes:

12 A. an assistance dog that has been or is being
13 trained as a guide dog, hearing dog or service dog;

14 B. a guide dog that has been or is being trained to
15 aid a blind or visually impaired person;

16 C. a hearing dog that has been or is being trained
17 to aid a deaf or hearing-impaired person; and

18 D. a service dog that has been or is being trained
19 to aid a person with a disability other than a sight or hearing
20 impairment."

21 Section 3. Section 28-11-3 NMSA 1978 (being Laws 1989,
22 Chapter 242, Section 2, as amended by Laws 1999, Chapter 262,
23 Section 2 and also by Laws 1999, Chapter 288, Section 2) is
24 amended to read:

25 "28-11-3. ADMITTANCE OF QUALIFIED ASSISTANCE ANIMALS.--

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1 A. Notwithstanding any other provision of law: a qualified
2 assistance animal shall be admitted to any building open to the
3 public and to all public accommodations such as restaurants,
4 hotels, hospitals, swimming pools, stores, common carriers and
5 theaters; provided that the qualified assistance animal is
6 under the control of [~~a person with a disability~~] an owner or a
7 trainer of the qualified assistance [~~animals~~] animal. No
8 person shall be required to pay any additional charges for
9 [~~his~~] the qualified assistance animal, but shall be liable for
10 any damage done by [~~his~~] the qualified assistance animal.

11 B. In an emergency requiring transportation or
12 relocation of the owner or trainer of the qualified assistance
13 animal, to the extent practicable, accommodations shall be made
14 for the qualified assistance animal to remain or be reunited
15 with the owner or trainer."

16 Section 4. Section 28-11-4 NMSA 1978 (being Laws 1989,
17 Chapter 242, Section 3) is amended to read:

18 "28-11-4. PENALTY.--~~[Any]~~ A person who violates [~~any~~] a
19 provision of [~~Section 1 or 2 of this act shall be~~] the
20 Assistance Animal Act is guilty of a misdemeanor and, upon
21 conviction, shall be sentenced in accordance with the
22 provisions of Section 31-19-1 NMSA 1978."

23 Section 5. Section 28-11-5 NMSA 1978 (being Laws 1999,
24 Chapter 113, Section 1) is amended to read:

25 "28-11-5. FINDINGS AND PURPOSE--INTERFERENCE WITH

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underscored material = new
[bracketed material] = delete

1 QUALIFIED ASSISTANCE [DOG] ANIMALS PROHIBITED--CRIMINAL AND
2 CIVIL PENALTIES.--

3 A. The legislature finds that unrestrained dogs
4 constitute a danger to qualified assistance [dogs] animals and
5 public safety. The purpose of this section is to protect
6 persons with disabilities and qualified assistance [dogs]
7 animals from attack by unrestrained dogs.

8 ~~[B. As used in this section, "assistance dog" means~~
9 ~~a dog that has been or is being trained for persons with a~~
10 ~~hearing, sight or other physical disability or impairment.~~

11 ~~G.] B.~~ It is unlawful for any person, with no legal
12 justification, to:

13 (1) intentionally interfere with the use of a
14 ~~[service dog]~~ qualified assistance animal by harassing or
15 obstructing the ~~[service dog user]~~ owner or trainer of the
16 qualified assistance animal or the ~~[service dog]~~ qualified
17 assistance animal; or

18 (2) intentionally fail or refuse to control
19 ~~[his animal]~~ the person's unrestrained dog, and ~~[the animal]~~
20 that dog interferes with or obstructs the ~~[service dog user]~~
21 owner or trainer of the qualified assistance animal or the
22 ~~[service dog]~~ qualified assistance animal.

23 ~~[D.] C.~~ The provisions of this section ~~[shall]~~ do
24 not apply to ~~[animals]~~ unrestrained dogs on private property
25 not open to the public.

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